

**2005 DRAFTING REQUEST**

**Bill**

Received: **12/16/2004**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Hummert**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - employee benefits**

Extra Copies: **GMM**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

---

**Pre Topic:**

DOA:.....Hummert, BB0320 -

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**Topic:**

Wisconsin Historical Foundation employees

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**Instructions:**

See Attached.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State Retire
/1	rchampag 12/16/2004	jdyer 12/20/2004	chaugen 12/20/2004	_____	lnorthro 12/20/2004		State
/2	rchampag 01/03/2005	jdyer 01/03/2005	pgreensl 01/04/2005	_____	lemery 01/04/2005		

FE Sent For:

**<END>**

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/?	rchampag	1/12/20 jcd	ch 12-20	ch 12-20			

FE Sent For:

<END>

## 2005-07 Budget Bill Statutory Language Drafting Request

- Topic: Extending fringe benefits to Wisconsin Historical Foundation employees
- Tracking Code: BB0320
- SBO team: Education
- SBO analyst: Josh Hummert
  - Phone: 4-8259
  - Email: joshua.hummert@doa.state.wi.us
- Agency acronym: <sup>S</sup>WHS
- Agency number: 245

**CORRESPONDENCE MEMORANDUM****STATE OF WISCONSIN  
Department of Administration**

**Date:** December 14, 2004

**To:** Steve Miller  
Legislative Reference Bureau

**From:** Josh Hummert  
Executive Policy and Budget Analyst

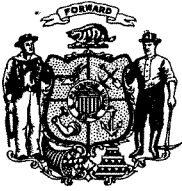
**Subject:** Wisconsin Historical Society Drafting Request

In 2003 Wisconsin Act 91, the Wisconsin Historical Society (WHS) was given the authority to contract with the Wisconsin Historical Foundation to have the Foundation perform services on behalf of the Society. The result of Act 91 is that the Foundation is now performing services that were previously performed by Society staff. The Society staff who are experienced with the programs generally will not accept positions with the Foundation, however, due to the fact that they will not receive the fringe benefits available to state employees.

Please draft language to allow current WHS employees who accept jobs with the Foundation to provide contracted services for WHS to continue to participate in state fringe benefit programs.

If there are questions or additional information is needed please contact me at 4-8259.

cc: Linda Nelson  
Bob Hanle



*D-Note*  
**State of Wisconsin**  
**2005 - 2006 LEGISLATURE**

LRB-1260/1

RAC:.....  
*jld*

*Sean*

DOA:.....Hummert, BB0320 - Wisconsin Historical Foundation employees

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

*don't gen*

AN ACT ...; relating to: the budget.

***Analysis by the Legislative Reference Bureau***

Under current law, the Historical Society may contract with the Wisconsin Historical Foundation, Inc., for the purposes of administering the Historical Society's membership program; soliciting and accepting contributions, gifts, grants, and bequests for the Historical Society; marketing the Historical Society's goods and services; providing support for the operation, management, and development of the Historical Society's programs; and performing other functions approved by the Board of Curators of the Historical Society.

This bill provides that, if the Historical Society contracts with the Wisconsin Historical Foundation, Inc., for any of these purposes, then the Wisconsin Historical Foundation, Inc., is a participating employer under the Wisconsin Retirement System, with respect to all of its employees who previously were employed by the Historical Society, and these employees are entitled to pension and all other fringe benefits that are available to state employees.

This bill will be referred to the Joint Survey Committee on Retirement Systems for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

*Retirement and Group Insurance*

*head →*

40.02 (54) (jm) The Wisconsin Historical Foundation, Inc., but subject to s. 40.02 (54) (jm)

**SECTION 2.** 40.21 (4m) of the statutes is created to read:

40.21 (4m) The Wisconsin Historical Foundation, Inc., is a participating employer only if it has entered into a contract with the historical society for any of the purposes specified in s. 44.015 (7) and only with respect to those of its employees who were previously employed by the historical society.

(END)

D-note



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1260/1dn

RAC:.....

*JL*

Josh Hummert:

Per your request, this draft provides that the Wisconsin Historical Foundation, Inc., if it provides goods and services to the Historical Society under s. 44.015 (7), is a participating employer under the Wisconsin Retirement System (WRS) with respect to those of its employees who were previously employed by the Historical Society. As we've discussed, there may be problems with including such an entity under the WRS. The reason is that the WRS is established as a governmental plan and as a qualified plan for the purposes of the Internal Revenue Code (IRC). See s. 40.015 (1). Under the IRC, a governmental plan is defined as "a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing." 26 USC 414 (d).

The Wisconsin Historical Foundation, Inc., is not a state entity but is instead a private corporation that may contract with a state agency for carrying out a public purpose. The Wisconsin Historical Foundation, Inc., is not an agency or instrumentality of the state. For that reason, including such an entity's employees within the WRS would allow nongovernmental employees to participate in a governmental plan. The inclusion of these employees in the WRS could potentially affect the qualified status of the WRS under the IRC.

While it is unlikely that the WRS would lose its qualified status because of the inclusion of a minimal number of these employees in the WRS, please note that the consequences of disqualification could be rather severe. Indeed, one of the most important consequences of the WRS losing its qualified status could be that contributions to the retirement plan would become taxable in the year in which the employee vests in the contribution and not when the employee receives the contributions in the form of an annuity. I, therefore, advise caution in expanding participation in the WRS to persons who are not governmental employees. You may wish to speak further with the Department of Employee Trust Funds on this issue.

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: rick.champagne@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1260/1dn  
RAC:jld:ch

December 20, 2004

Josh Hummert:

Per your request, this draft provides that the Wisconsin Historical Foundation, Inc., if it provides goods and services to the Historical Society under s. 44.015 (7), is a participating employer under the Wisconsin Retirement System (WRS) with respect to those of its employees who were previously employed by the Historical Society. As we've discussed, there may be problems with including such an entity under the WRS. The reason is that the WRS is established as a governmental plan and as a qualified plan for the purposes of the Internal Revenue Code (IRC). See s. 40.015 (1). Under the IRC, a governmental plan is defined as "a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing." 26 USC 414 (d).

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While it is unlikely that the WRS would lose its qualified status because of the inclusion of a minimal number of these employees in the WRS, please note that the consequences of disqualification could be rather severe. Indeed, one of the most important consequences of the WRS losing its qualified status could be that contributions to the retirement plan would become taxable in the year in which the employee vests in the contribution and not when the employee receives the contributions in the form of an annuity. I, therefore, advise caution in expanding participation in the WRS to persons who are not governmental employees. You may wish to speak further with the Department of Employee Trust Funds on this issue.

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: rick.champagne@legis.state.wi.us

## **Champagne, Rick**

---

**From:** Hummert, Joshua  
**Sent:** Monday, December 20, 2004 10:55 AM  
**To:** Champagne, Rick  
**Subject:** RE: LRB Draft: 05-1260/1 Wisconsin Historical Foundation employees

Yes. The reason why the request rather vaguely referred to "fringe benefit programs" is because while I knew that non-governmental employees couldn't participate in the WRS, I also wanted to ensure that these employees could participate in whatever fringe benefit plans were allowable.

-----Original Message-----

**From:** Champagne, Rick [mailto:Rick.Champagne@legis.state.wi.us]  
**Sent:** Monday, December 20, 2004 10:44 AM  
**To:** Hummert, Joshua  
**Subject:** RE: LRB Draft: 05-1260/1 Wisconsin Historical Foundation employees

Sorry about the confusion Josh; so is the idea to includes these employees in the health insurance program?

-----Original Message-----

**From:** Hummert, Joshua  
**Sent:** Monday, December 20, 2004 10:32 AM  
**To:** Haugen, Caroline  
**Cc:** Hanle, Bob; Champagne, Rick; Hanaman, Cathlene  
**Subject:** RE: LRB Draft: 05-1260/1 Wisconsin Historical Foundation employees

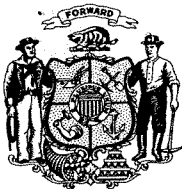
Based on an e-mail exchange that I had with Rick, I did not intend the drafting request to include Wisconsin Historical Foundation employees in the Wisconsin retirement system. The intent of the request was to allow employees who go from state service to the Wisconsin Historical Foundation to participate in limited state employee benefit programs such as health insurance that would not endanger the Wisconsin Retirement System as a governmental plan.

-----Original Message-----

**From:** Haugen, Caroline [mailto:Caroline.Haugen@legis.state.wi.us]  
**Sent:** Monday, December 20, 2004 10:15 AM  
**To:** Hummert, Joshua  
**Cc:** Hanle, Bob; Hanaman, Cathlene; Haugen, Caroline; Merry-Mason, Monica  
**Subject:** LRB Draft: 05-1260/1 Wisconsin Historical Foundation employees

Following is the PDF version of draft 05-1260/1.

→ Provide health insurance  
under State employees  
Plan



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1260/12

RAC:jld:ch

*Soon*

$\frac{1}{3}$  or  $\frac{1}{4}$ ?

RMR

DOA:.....Hummert, BB0320 - Wisconsin Historical Foundation employees

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

*Don't gen*

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**RETIREMENT AND GROUP INSURANCE**

Under current law, the Historical Society may contract with the Wisconsin Historical Foundation, Inc., for the purposes of administering the Historical Society's membership program; soliciting and accepting contributions, gifts, grants, and bequests for the Historical Society; marketing the Historical Society's goods and services; providing support for the operation, management, and development of the Historical Society's programs; and performing other functions approved by the Board of Curators of the Historical Society.

~~This bill provides that, if the Historical Society contracts with the Wisconsin Historical Foundation, Inc., for any of these purposes, then the Wisconsin Historical Foundation, Inc., is a participating employer under the Wisconsin Retirement System, with respect to all of its employees who previously were employed by the Historical Society, and these employees are entitled to pension and all other fringe benefits that are available to state employees.~~

~~This bill will be referred to the Joint Survey Committee on Retirement Systems for a detailed analysis, which will be printed as an appendix to this bill.~~

✓  
*Insert  
Analysis* →

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1     ~~SECTION 1. 40.02 (54) (jm) of the statutes is created to read:~~

2         ~~40.02 (54) (jm) The Wisconsin Historical Foundation, Inc., but subject to s.~~

3     ~~40.21 (4m).~~

4     ~~SECTION 2. 40.21 (4m) of the statutes is created to read:~~

5         ~~40.21 (4m) The Wisconsin Historical Foundation, Inc., is a participating~~  
6     ~~employer only if it has entered into a contract with the historical society for any of~~  
7     ~~the purposes specified in s. 44.015 (7) and only with respect to those of its employees~~  
8     ~~who were previously employed by the historical society.~~

9     ~~(END)~~

6  
Tight 2-8 ✓

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1260/2ins  
RAC::

**Insert Analysis:**

\* This bill provides that, if the Historical Society contracts with the Wisconsin Historical Foundation, Inc., any employee of the Wisconsin Historical Foundation, Inc., who was previously employed by the Historical Society is eligible to receive health care coverage under a plan offered to state employees, subject to enrolling in the plan during any applicable enrollment period and to any condition established by contract or by rule.

**Insert 2-8:**

**SECTION 1.** 20.515 (1) (g) of the statutes is created to read:

20.515 (1) (g) *Health care coverage for employees of the Wisconsin Historical Foundation, Inc.* All moneys received from the Wisconsin Historical Foundation, Inc., under s. 40.515 for the payment of health care coverage benefits for certain of its employees and the cost of administering the benefits under s. 40.515.

NOTE: BUD  
**SECTION 2.** 40.51 (1) of the statutes is amended to read:

40.51 (1) The procedures and provisions pertaining to enrollment, premium transmitted and coverage of eligible employees and employees eligible for health care coverage under s. 40.515 for health care benefits shall be established by contract or rule except as otherwise specifically provided by this chapter.

History: 1981 c. 96; 1983 a. 27; 1985 a. 29; 1987 a. 27, 107, 356; 1987 a. 403 s. 256; 1989 a. 31, 93, 121, 129, 182, 201, 336, 359; 1991 a. 39, 70, 113, 152, 269, 315, 1993 a. 450, 481; 1995 a. 289; 1997 a. 27, 155, 202, 237, 252; 1999 a. 32, 95, 115, 155; 2001 a. 16, 38, 104; 2003 a. 33.

**SECTION 3.** 40.515 of the statutes is created to read:

**40.515 Health care coverage for employees of the Wisconsin Historical Foundation, Inc.** If the historical society has entered into a contract with the Wisconsin Historical Foundation, Inc., for any of the purposes specified in s. 44.015 (7), any employee of the Wisconsin Historical Foundation, Inc., who was previously employed by the historical society is eligible to receive health care coverage under a plan offered to state employees under s. 40.51 (6), subject to enrolling in the plan

1 during any applicable enrollment period and to any conditions established by  
2 contract or by rule under s. 40.51 (1). ✓

3 SECTION 4. 44.015 (7) ✓ of the statutes is amended to read:

4 44.015 (7) Contract with the Wisconsin Historical Foundation, Inc., or any  
5 other nonstock, nonprofit corporation under ch. 181 for the purposes of  
6 administering the historical society's membership program, soliciting and accepting  
7 contributions, gifts, grants, and bequests for the historical society, marketing the  
8 historical society's goods and services, providing support for the operation,  
9 management, and development of the historical society's programs, and performing  
10 other functions approved by the board of curators. If the Wisconsin Historical  
11 Foundation, Inc., enters into a contract with the historical society for any purpose  
12 under this subsection, ✓ the Wisconsin Historical Foundation, Inc. shall provide health  
13 care coverage under s. 40.515 ✓ to its employees who were previously employed by the  
14 historical society. ✓

History: 1977 c. 29; 1987 a. 395, 399; 1991 a. 39; 1995 a. 27; 1999 a. 9; 2001 a. 109; 2003 a. 91.



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1260/2

RAC:jld:pg

DOA:.....Hummert, BB0320 - Wisconsin Historical Foundation employees

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**RETIREMENT AND GROUP INSURANCE**

Under current law, the Historical Society may contract with the Wisconsin Historical Foundation, Inc., for the purposes of administering the Historical Society's membership program; soliciting and accepting contributions, gifts, grants, and bequests for the Historical Society; marketing the Historical Society's goods and services; providing support for the operation, management, and development of the Historical Society's programs; and performing other functions approved by the Board of Curators of the Historical Society.

This bill provides that, if the Historical Society contracts with the Wisconsin Historical Foundation, Inc., any employee of the Wisconsin Historical Foundation, Inc., who was previously employed by the Historical Society is eligible to receive health care coverage under a plan offered to state employees, subject to enrolling in the plan during any applicable enrollment period and to any condition established by contract or by rule.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*



1           **SECTION 1.** 20.515 (1) (g) of the statutes is created to read:

2           20.515 (1) (g) *Health care coverage for employees of the Wisconsin Historical*  
3           *Foundation, Inc.* All moneys received from the Wisconsin Historical Foundation,  
4           Inc., under s. 40.515 for the payment of health care coverage benefits for certain of  
5           its employees and the cost of administering the benefits under s. 40.515.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
reflected in the revised schedule in s. 20.005, stats.

6           **SECTION 2.** 40.51 (1) of the statutes is amended to read:

7           40.51 (1) The procedures and provisions pertaining to enrollment, premium  
8           transmitted and coverage of eligible employees and employees eligible for health  
9           care coverage under s. 40.515 for health care benefits shall be established by contract  
10          or rule except as otherwise specifically provided by this chapter.

11          **SECTION 3.** 40.515 of the statutes is created to read:

12          **40.515 Health care coverage for employees of the Wisconsin Historical**  
13          **Foundation, Inc.** If the historical society has entered into a contract with the  
14          Wisconsin Historical Foundation, Inc., for any of the purposes specified in s. 44.015  
15          (7), any employee of the Wisconsin Historical Foundation, Inc., who was previously  
16          employed by the historical society is eligible to receive health care coverage under  
17          a plan offered to state employees under s. 40.51 (6), subject to enrolling in the plan  
18          during any applicable enrollment period and to any conditions established by  
19          contract or by rule under s. 40.51 (1).

20          **SECTION 4.** 44.015 (7) of the statutes is amended to read:

21          44.015 (7) Contract with the Wisconsin Historical Foundation, Inc., or any  
22          other nonstock, nonprofit corporation under ch. 181 for the purposes of  
23          administering the historical society's membership program, soliciting and accepting

1 contributions, gifts, grants, and bequests for the historical society, marketing the  
2 historical society's goods and services, providing support for the operation,  
3 management, and development of the historical society's programs, and performing  
4 other functions approved by the board of curators. If the Wisconsin Historical  
5 Foundation, Inc., enters into a contract with the historical society for any purpose  
6 under this subsection, the Wisconsin Historical Foundation, Inc. shall provide health  
7 care coverage under s. 40.515 to its employees who were previously employed by the  
8 historical society.

9 (END)